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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,141	09/08/2003	Johannes Schmid	032498-016	8660

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EXAMINER	
TRAN, KHOI H	

ART UNIT	PAPER NUMBER
3651	

DATE MAILED: 05/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/656,141	SCHMID, JOHANNES	
	Examiner	Art Unit	
	Khoi H. Tran	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 March 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

KHOI H. TRAN
PRIMARY EXAMINER

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original specification is silent as to how the mixing formula is used "to control the scale" as claimed. Per the specification, the mixing formula is used to control the dispensing or mixing process of the substances. The scale 6 is only used as measuring and feeding back device. The mixing formula is not used to "control" the scale 6. How the scale is being "control" based on the mixing formulae was not part of the original invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-21, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Haaser et al. 5,938,080 in view of Dirksing et al. 6,516,245.

Haaser et al. '080 disclose a color mixing device wherein the mixing process is controlled via a processor. The processor comprises local memory unit for storing mixing formulae (Figure 11). The processor acts upon dispensing valves and respective drives to control mixing processes. The device comprises a scale 70 integrated into the device for measuring and controlling of the mixing substances. The device comprises display 190 (Figures 1 and 12) for showing references and actual values of the mixing formula or substances. Manual adjustment of the mixing formula or substances could be done after the displayed of the references and actual values (column 10, second full paragraph). However, Haaser et al. '080 is silent as to the specifics of a wireless network, wherein the mixing formulae could be downloaded from a remote data server.

Dirksing et al. '245 disclose a device for mixing substances and method of operating said device for mixing substances. The mixing device 130 comprises a processor unit having local memory for storing mixing formula (Figures 2A and 2C). The processor comprises input means for transferring information to the processor. The processor controls the drive unit and valves (measuring devices) for dispensing appropriate amount of substances to be mixed (Figures 2C and 2D) based on the information provided via input means. The device comprises a display unit (LCD, not shown, but figuratively represented as reference 90 in Figure 1, and column 4 last paragraph) for displaying a dispensing formula/product to a user. The device comprises

a measuring device (i.e. valves) by which portions of substances in quantities determined according to a mixing formula are filled into a container. The processor unit is connected to a communication module for establishing a wireless connection to a data server, i.e. the Internet (column 4, lines 50-54, column 5, first paragraph). The mixing formula can be transmitted to the memory unit from said data server (Figure1). The formula can be manually adjusted to accommodate user's preference. The mixing formula can be filled manually or automatically based on user's input. Dirksing '245 processor connects to a data server (any device that provides data to the processor) for a time period regularly or as needed based on user's predetermined inputs. Dirksing et al. '245 comprise memory for storing previously selected mixing formula (Figure 1, blocks 40 and 50). The stored selection can be visualized on the display unit (i.e. LCD and reference 90 in Figure 1) for manual adjustment of the pre-selected formula.

Dirksing et al. '245 teach that providing data of mixing formulae from a central remote data server could be downloaded from a remote data server via wireless communication network.

It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have provided Haaser et al. '080 with wireless communication connection to a remote data server because it facilitates the sending of mixing data formula to the local controls, as taught by Dirksing et al. '245.

In regards to claims 2 and 3 Haaser et al. '080 modified device discloses all elements per claimed invention. However it is silent as to the specific of the wireless

communication module operates according to a mobile radio protocol or/and according to at least one wireless Local Area Network protocol.

As pointed out from Applicant's specification and the filed Information Disclosure Statement, wireless communication having mobile radio protocol and/or Wireless Local Area Network protocol (W-LAN) are commonly well known.

It would have been obvious for a person with ordinary skill in the art at the time the invention was made, to have provided mobile radio protocol and/or W-LAN protocol for Haaser et al. '080 modified wireless communication network because it facilitates a well-known wireless communication protocol for the network.

In regards to claim 4, Haaser et al. '080 modified device discloses all elements per claimed invention. However it is silent as to the specific of the communication module operates using at least Wireless Application Protocol (WAP) and a Hypertext Transfer Protocol (HTTP).

As pointed out from Applicant's specification and the filed Information Disclosure Statement, WAP and HTTP protocols are commonly well known for providing communication protocols within an Internet environment.

It would have been obvious for a person with ordinary skill in the art at the time the invention was made, to have provided WAP and HTTP protocols for Haaser et al. '080 modified wireless Internet communication network because it facilitates well-known communication protocols for the Internet network.

In regards to claim 11, when a new formula is introduced to Haaser et al. '080 modified device it is interpreted to be a new mixing formula. When an existing formula is modified/changed by a user, it is a modifying formula replacing the existing formula.

In regards to claims 12 and 19, it is obvious that the updating of data in the local memory takes place a) before a start of a mixing process; b) at a predefined or at selectable time intervals; c) in response to manual control, or; d) in response to being initiated by the data server from the Internet.

5. Claims 1-21, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Haaser et al. 5,938,080 in view of Neas et al. 6,793,387.

Haaser et al. '080 disclose a color mixing device wherein the mixing process is controlled via a processor. The processor comprises local memory unit for storing mixing formulae (Figure 11). The processor acts upon dispensing valves and respective drives to control mixing processes. The device comprises a scale 70 integrated into the device for measuring and controlling of the mixing substances. The device comprises display 190 (Figures 1 and 12) for showing references and actual values of the mixing formula or substances. Manual adjustment of the mixing formula or substances could be done after the displayed of the references and actual values (column 10, second full paragraph). However, Haaser et al. '080 is silent as to the specifics of a wireless network, wherein the mixing formulae could be downloaded from a remote data server.

Neas et al. '490 disclose a device for mixing color substances. The device comprises a processor unit 17A having a local memory to store mixing formula, an

interactive display/input unit 16A, and a measuring/dispensing system 17B. The device comprises a wireless communication module for connecting the processor to a data server 25, to a wide area network (WAN), or to an Internet network (column 5, lines 37-67). Inputs for controlling the dispensing/mixing of substances by the device could be provided by touch screen 16A manually, by downloaded from the data server, the WAN, or the Internet onto the processor and the local memory unit. The inputs to the processor and the memory unit include mixing formula information in order for the device to properly control the amount of desired mixing substances.

Neas et al. '490 teach that providing data of mixing formulae from a central remote data server could be downloaded from a remote data server via wireless communication network.

It would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have provided Haaser et al. '080 with wireless communication connection to a remote data server because it facilitates the sending of mixing data formula to the local controls, as taught by Neas et al. '490.

In regards to claims 2 and 3, it is obvious that Haaser et al. '080 modified wireless communication module would have to operate according to at least one wireless local area network protocol in order for the communication network to adhere to the current industry's communication standards and/or the US FCC regulations. In addition, as pointed out from Applicant's specification and the filed Information Disclosure Statement, wireless communication having mobile radio protocol and/or Wireless Local Area Network protocol (W-LAN) is commonly well known.

In regards to claim 4, it is obvious that Haaser et al. '080 modified device and respective processor unit, when connecting to the Internet, would comprise a browser that operates using a Hyper text Transfer Protocol because such standard protocol is commonly well known within the industry, as pointed out in Applicant's specification and the filed Information Disclosure Statement.

Haaser et al. '080 modified device regularly or intermittently creates wireless communication connections to the data server. Each time a mixing formula is inputted to the processor for the controlling of the dispensing/mixing process, it is considered to be an up-to-date data/information. For example, a new mixing formula replacing the previous mixing formula is obviously an up-to-date mixing formula.

In regards to claims 12 and 19, it is obvious that the new up-to-date mixing formula would have to be inputted to the processor prior to the mixing process.

Response to Arguments

6. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

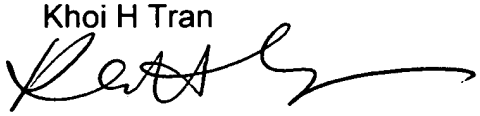
8. Additional reference(s) made of record and not relied upon are considered to be of interest to applicant's disclosure: see attached USPTO Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H. Tran whose telephone number is (571) 272-6919. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khoi H Tran



Primary Examiner
Art Unit 3651

KHT
05/04/2006